

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2006-328-C - ORDER NO. 2007-679  
NOVEMBER 1, 2007

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| IN RE: Petition of the Office of Regulatory Staff to<br>Require ConnectNow! Telecomm, LLC to Issue<br>Refunds | ) ORDER REQUIRING<br>) REFUNDS AND<br>) ALLOTING TIME FOR<br>) SUBMISSION OF<br>) REFUND CLAIMS |
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**INTRODUCTION**

This matter is before the Public Service Commission of South Carolina (the “Commission”) on the Petition of the Office of Regulatory Staff (“ORS”) to require ConnectNow! Telecom LLC (“ConnectNow” or “Respondent”) to issue refunds to its customers for service that ConnectNow failed to provide. On December 14, 2006, ORS filed a Motion for Default Judgment and requested an extension of the pre-filed testimony deadlines. By Order 2007-199, the Commission granted ORS’s Motion for Default due to the Respondent’s failure to answer the Petition. As explained more fully below, on March 29, 2007, the Commission held a hearing on this matter, and finds that refunds in the amount of \$ 6,175.00 plus interest are due and payable. The Commission adjourned the hearing on March 29, 2007, at 3:30 p.m. and concludes that it will accept refund claims by former ConnectNow customers and agents that are filed with the Commission no later than one hundred eighty (180) days after the date of this Order.

**BACKGROUND**

ConnectNow operated as a provider of prepaid local exchange service in various areas in South Carolina, including areas served by incumbent companies BellSouth Telecommunications, Inc. (“BellSouth”), Verizon South, Inc., and Farmers Telephone Cooperative, Inc. pursuant to a Certificate of Public Convenience and Necessity (“CPCN”) granted by Order Nos. 2003-451 and 2003-451(A).<sup>1</sup>

In Docket No. 2006-308-C, ORS filed an emergency petition with the Commission on October 3, 2006, to require BellSouth to provide notice of the termination of service to ConnectNow subscribers. BellSouth was an underlying provider to ConnectNow and had notified ORS and ConnectNow of BellSouth’s intention to terminate service due to ConnectNow’s nonpayment status. On October 10, 2006, BellSouth terminated service to ConnectNow for nonpayment of service. At the time BellSouth terminated service to ConnectNow, ConnectNow provided prepaid competitive local exchange service to more than 10,000 subscribers in BellSouth’s service territory. (McDaniel Testimony p. 4, lines 4-7). ORS withdrew its emergency petition on October 10, 2006, stating that ORS had received confirmation that ConnectNow was providing notice of the termination via automated voice messaging. Docket No. 2006-308-C was administratively closed on October 17, 2006.

On October 20, 2006, ORS filed a Petition to Require ConnectNow to issue refunds because ORS alleged that ConnectNow was continuing to collect money from customers for pre-paid local telephone service that was not and could not be provided by

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<sup>1</sup> We revoked the CPCN of ConnectNow for failure to file its annual report and Universal Service Fund report pursuant to Order No. 2007-198 dated March 29, 2007.

ConnectNow. ConnectNow failed to timely answer ORS's Petition. On January 10, 2007, the Commission granted ORS's Motion for Default Judgment and the Commission issued a new notice of hearing and revised pre-filed testimony deadlines on January 17, 2007.

### **FINDINGS OF FACT**

After thorough consideration of the entire record including the testimony, exhibits and the applicable law, the Commission makes the following findings of fact with respect to ORS's Petition:

1. ConnectNow was a competitive local exchange telephone company authorized to provide prepaid local telephone service. ConnectNow served approximately 10,000 subscribers at the time of termination of service by its underlying provider, BellSouth Telecommunications, Inc.

2. BellSouth terminated service to ConnectNow on or about October 10, 2006.

3. On October 20, 2006, ORS filed a Petition to Require ConnectNow to issue refunds. The Commission issued a thirty day notice letter to ConnectNow on October 25, 2006. The thirty day notice stated that the petitioner or complainant may apply to the Commission for the relief sought upon a failure to answer. Respondent failed to file an answer to ORS's petition.

4. The Commission issued notice of the hearing for February 14, 2007, on December 11, 2006, and established deadlines for pre-filing of testimony.

5. On December 14, 2006, ORS filed a Motion for Default Judgment For Failure to Answer and requested that the pre-filed testimony dates and hearing date be

suspended pending a ruling on its Motion. Respondent failed to respond to ORS's Motion. The Commission granted ORS's Motion on January 10, 2007 and issued Order No. 2007-199 on March 23, 2007. The Commission also revised the pre-filed deadlines for testimony and limited the scope of the testimony to the issue of the amount of refunds due and payable by ConnectNow.

6. ORS requested a one week extension of the pre-filed testimony deadlines on February 6<sup>th</sup> and the Commission issued revised deadlines on February 7<sup>th</sup>. On February 23, 2007, ORS submitted the pre-filed testimony of James M. McDaniel, Bonnie Tharpe, and Perry Mancill. ConnectNow did not submit pre-filed testimony.

7. The Commission held a public hearing on March 29, 2007. ORS was represented by Nanette Edwards, Esquire. Respondent did not attend. ORS's witnesses presenting testimony in this matter were Perry Mancill, Bonnie Tharpe, and James M. McDaniel.

8. On behalf of ORS, Mr. Mancill testified that he was a ConnectNow agent and is owed \$4,389.00. Mr. Mancill explained that ConnectNow would automatically draft his bank account once a week for service provided to and paid for by ConnectNow customers who had established service through Mr. Mancill. (Mancill Testimony p. 2, lines 13-17). Additionally, Mr. Mancill testified that ConnectNow continued to draft his bank account after October 10, 2006, the date BellSouth terminated ConnectNow's services.

9. On behalf of ORS, Ms. Bonnie Tharpe testified that she was also a ConnectNow agent and she is owed \$1,600.00. (Tharpe Testimony p. 2, lines 1-3).

10. On behalf of ORS, Mr. James M. McDaniel testified that ORS had recently received a list of ConnectNow agents and he recommended that the Commission permit ORS the opportunity to send a notice letter to those agents informing them and their customers to submit any refund claims to ORS as of a deadline established by the Commission. ORS explained that by holding this docket open for a period of 90 days ORS would attempt to identify additional claimants harmed by ConnectNow's actions. Mr. McDaniel also noted that ORS had received affidavits from Earnestine Brown and Gloria Smith who claimed that they were owed \$118.00 and \$68.00 respectively. Given that ConnectNow had more than 10,000 subscribers in the BellSouth service area, ORS's witness Mr. McDaniel noted that a large number of customers may be due refunds and that based on the testimony of Mr. Mancill and Ms. Tharpe, certain ConnectNow customers have been willfully overcharged. Where a company has willfully overcharged its customers, the Commission may require the company to issue refunds plus interest. Mr. McDaniel also offered his view, and that of ORS, that the Commission should schedule rulemaking proceedings with regard to whether and in what manner the Regulations should provide for bonding or other security to protect consumers of prepaid local exchange telephone service.

### **CONCLUSIONS OF LAW**

Based upon the record in this proceeding, the Commission makes the following conclusions of law:

1. This Commission concludes that it has jurisdiction over this matter and the relief sought in the Petition pursuant to S.C. Code Ann. § 58-9-210.

2. We conclude based upon the uncontested testimony of Mr. Mancill that he is owed a refund in the amount of \$4,389.00 plus interest to be calculated at the rate and in the manner established by law.

3. We conclude based upon the uncontested testimony of Ms. Tharpe that she is owed a refund in the amount of \$1,600.00 plus interest to be calculated at the rate and in the manner established by law.

4. We conclude based upon the affidavits provided that Ms. Earnestine Brown is due a refund in the amount of \$118.00 and that Ms. Gloria Smith is due a refund in the amount of \$68.00 plus interest to be calculated at the rate and in the manner established by law.

5. Based on the foregoing findings of fact, the file in this matter, and the hearing held in this matter, the Commission concludes that this docket shall remain open for a period of one hundred eighty (180) days to allow ConnectNow agents and customers the opportunity to submit refund claims supported by affidavit and other evidence such as cancelled checks or some other form of proof of payment. The Commission also finds that the public interest would be served by scheduling rulemaking proceedings with regard to whether and in what manner the Regulations should provide for bonding or other security to protect consumers of prepaid local exchange telephone service.

IT IS THEREFORE ORDERED THAT:

1. ConnectNow issue refunds plus interest in accordance with our findings and conclusions of law.

2. This docket shall remain open for a period of one hundred eighty (180) days from the date of this Order for the submission of refund claims from ConnectNow customers and agents.

3. The Commission shall establish a rulemaking docket with regard to whether and in what manner the Regulations should provide for bonding or other security to protect consumers of prepaid local exchange telephone service.

4. This Order shall remain in full force and effect until further Order of the Commission.

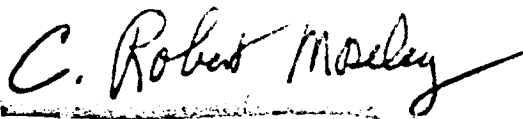
BY ORDER OF THE COMMISSION:



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G. O'Neal Hamilton, Chairman

ATTEST:



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C. Robert Moseley, Vice Chairman

(SEAL)